

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
FILED**

WILLIAM L. GARRETT, JR.,

Petitioner,

v.

THOMAS MCBRIDE, Warden,

Respondent.

JUN 26 2006

**U.S. DISTRICT COURT
CLARKSBURG, WV 26301**

**Civil No. 2:06cv46
(Judge Maxwell)**

OPINION/REPORT AND RECOMMENDATION

On May 8, 2006, the Court received a letter from the petitioner in which he challenges a sentence imposed in the Circuit Court for Cabell County, West Virginia. Petitioners' letter was therefore construed as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 and docketed accordingly. Petitioner is currently incarcerated at the Mt. Olive Correctional Center located in Fayette County, West Virginia.

"Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him . . ." 28 U.S.C. § 2241(d). Here, both the county of petitioners' conviction and the county of his incarceration are located in the Southern District of West Virginia. There is absolutely no connection between petitioner and this District.

Accordingly, it is the recommendation of the undersigned that this case be **TRANSFERRED** to the Southern District of West Virginia for all further proceedings and that

the case be terminated from this Court's active docket upon transfer.

Within ten (10) days after being served with a copy of this report and recommendation, any party may file with the Clerk of Court written objections identifying those portions of the recommendation to which objection is made and the basis for such objections. A copy of any objections should also be submitted to the Honorable Robert E. Maxwell, United States District Judge. Failure to timely file objections to this recommendation will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); United States v. Schronce, 727 F.2d 91 (4th Cir.), cert. denied, 467 U.S. 1208 (1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); Thomas v. Arn, 474 U.S. 140 (1985).

The Clerk is directed to mail a copy of this Opinion/Report and Recommendation to the *pro se* petitioner and any counsel of record.

DATED: June 23, 2006.


JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE